

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MC ALLEN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO: 7:13-CR-070-12
	)	
Plaintiff,	)	CRIMINAL
	)	
vs.	)	McAllen, Texas
	)	
JORGE GARZA,	)	Tuesday, August 6, 2013
	)	
Defendant.	)	(9:54 a.m. to 10:47 a.m.)

---

CLOSING ARGUMENT ON BEHALF OF DEFENDANT JORGE GARZA  
DURING JURY TRIAL - DAY 4

BEFORE THE HONORABLE RANDY CRANE,  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For Plaintiff:	JAMES STURGIS, ESQ. ANIBAL ALANIZ, ESQ. Assistant United States Attorney 1701 W. Business Hwy. 83 Suite 600 McAllen, Texas 78501
For Defendant:	LILLY A. GUTIERREZ, ESQ. 4901 S. Jackson Rd. Edinburg, TX 78539
Interpreter:	Elena Medrano
Court Recorder:	Richard Cortez
Transcribed By:	Exceptional Reporting Services, Inc. P.O. Box 18668 Corpus Christi, Texas 78480-8668 361 949-2988

Proceedings recorded by electronic sound recording;  
transcript produced by transcription service.

McAllen, Texas; Tuesday, August 6, 2013; 9:54 a.m.

(Partial transcript; closing argument on behalf of Defendant)

(Jurors present)

MS. GUTIERREZ: If it please the Court?

THE COURT: You may.

BY MS. GUTIERREZ: Counsel. Ladies and gentlemen of the jury, I have been waiting to talk to you. First of all, I do want to thank you on behalf of myself and Jorge for the time that you've put into this. I agree with Mr. Sturgis, it took longer than we had expected. And we appreciate your patience and your service.

I want to talk to you about a few things that I discussed with you about five, six days ago. I told you that you were going to hear evidence having to do with a number of conspiracies that had two things in common. One is J.P. Flores, that J.P. Flores's hands touched every conspiracy. You heard the evidence now. And I believe that, based on the evidence, that is an accurate statement today. The second thing was the fact that in every single conspiracy, the manner in which they accomplished their illegal activity was by deception, deception in order to gain a benefit.

The Government's -- it is the Government's burden to bring forth evidence to you to prove beyond a reasonable doubt the charges that Jorge is being charged with. So what evidence did the Government bring to you? They brought you four

1 individuals who are all convicted drug traffickers, and who all  
2 -- excuse me -- have made an agreement with the Government to  
3 come to this courtroom and to testify against Jorge for a  
4 benefit. Sound familiar? They've come to this courtroom for a  
5 benefit. And what is that benefit? The benefit they all  
6 testified was the hopes of a third off their sentence, a  
7 reduction of their sentence. So let's talk about the evidence  
8 that you heard. Mr. Sturgis did mention and speak of some of  
9 the evidence, but I want to go a little bit more in detail with  
10 respect to that evidence. Let's start with David Olivarez.

11 David Olivarez was not associated as directly with  
12 the conspiracy of the Fernando Guerras. He was, from his  
13 testimony, more associated with Julio Davila and Rene Garcia  
14 and those other individuals. He'd never -- I agree with Mr.  
15 Sturgis, that he never says that he saw Jorge at any time, not  
16 just in the patrol vehicle, but he doesn't know him. Okay?  
17 And he -- the most that he says he saw an individual in uniform  
18 in a Hidalgo County Sheriff's Office unit. In fact, he never  
19 even says he sees a deputy. He just sees an individual with a  
20 uniform. I suppose if somebody tried, we could -- someone  
21 could get a uniform, especially if individuals are -- have some  
22 connections with the Hidalgo County Sheriff's Office, could  
23 possibly, if they're already accessing deputies and units, they  
24 might possibly get a uniform. The point is that he doesn't  
25 even say that it's a deputy. He just says, "I saw an

1 individual with a uniform in a unit."

2           What's important about David Olivarez's testimony is  
3 the fact that he talks about a second deal. He says that Rene  
4 Garcia and him conspired to steal some money that was in a  
5 Penske truck, in some piping, I think something like that. And  
6 so they -- he -- they found the money, took it out. At the  
7 direction of Rene Garcia, he was instructed to go and dump the  
8 Penske truck and -- in a ditch. And he said -- his testimony  
9 was that Rene Garcia made arrangements to have a deputy go get  
10 that Penske truck and take it to the Hidalgo County Sheriff's  
11 Office. There was no testimony from David Olivarez that  
12 Fernando Guerra, Junior assisted in that at all. If you  
13 recall, the first deal when he talks about the deputy, seeing  
14 the deputy, the fake stop, he does mention that Fernando  
15 Guerra, Junior assisted in that. The second one, however, he  
16 makes no mention of Fernando Guerra, Junior. So we can only  
17 conclude that Rene Garcia had access to a deputy, independent  
18 of Fernando Guerra, Junior. That, I think, is very important  
19 for us to remember, because now we know that Julio Davila's  
20 conspiracy, or at the very least, Rene Garcia, had access to a  
21 deputy. That's David Olivarez's testimony.

22           Let's go ahead and -- well, before we move from him,  
23 he testified that yes, in fact, he was looking for -- well, he  
24 was expecting a reduction in his sentence for the purpose of  
25 coming -- in exchange for coming here and testifying in this

1 trial. We can't really say he testified against Jorge and --  
2 because he never said anything about Jorge, but he did come and  
3 testify, and the Government used him to establish something for  
4 their purpose.

5 Now, also remember about David Olivarez's deal, that  
6 that is the only deal, the only fake traffic stop, that  
7 included actual drugs in the vehicle when it was stopped.

8 Let's move on to Fernando Guerra, Junior. Fernando  
9 Guerra, just to make -- just to clarify something, he didn't  
10 say ten to 15 times. He said ten times, "I don't know." That  
11 was his testimony about how many times he recalls doing these  
12 stops.

13 Fernando Guerra, Junior says that he didn't see Jorge  
14 in any of his activities. He testifies to that. He never sees  
15 Jorge inside any of the units that conducted the fake traffic  
16 stops. He testified to that. He said, "I know -- the only  
17 thing I know is that it was a Jorge," and that it was told to  
18 him by his father. One thing that I think is interesting for  
19 us to think about is the fact that when his father, Fernando  
20 Guerra, Senior, testified about Jorge, he called him -- he said  
21 that J.P. called him "Amigo." He knew him as "Amigo." Okay?  
22 That's something for us to consider. And that's pretty much  
23 the extent of Fernando Guerra, Junior's testimony with respect  
24 to my client, is he, you know, talked about all the dealings  
25 that he had done, and I don't really want to bore you with all

1 that. We already understand how those deals were done. Let's  
2 move on to Fernando Guerra, Senior.

3 Fernando Guerra, Senior said that J.P. Flores was the  
4 one that planned all the stops. He actually said that  
5 J.P. Flores was the mastermind. If you recall, he said, "Yeah.  
6 We were, you know, stealing these loads, we were covering them  
7 up by using the Julio Davila conspiracy, paying for fake  
8 documentation. But at some point, it wasn't working anymore.  
9 The owners of the drugs were getting suspicious, were not  
10 accepting it. I'm not -- I don't really recall. I just  
11 remember that they were not -- it wasn't working anymore, and  
12 he needed to do something different." And so Guerra, Senior  
13 claims that he talks to J.P. about this and J.P. devises this  
14 plan of the stops. He does indicate that there was an attempt  
15 -- where the stop included two -- an occupant or two who ran  
16 out right out of the car, but then it was revised and it came  
17 up with what eventually was.

18 If you remember my questioning of Fernando Guerra,  
19 Senior, you might remember that we got off to a rocky start  
20 initially because of, I believe, the interpretation. But at  
21 some point, it started to flow. I asked a question, he'd  
22 answer the question, I'd ask for additional information, or I'd  
23 ask for something. He'd either clarify if I had made a mistake  
24 or he'd give an explanation, and it was flowing. It was  
25 flowing. We were getting information. We were getting the

1 evidence to you. If you remember when I got to the point of  
2 asking him whether he could place Jorge in that unit on those  
3 fake traffic stops, we came to a complete halt and we stayed  
4 there for somewhere around 30 to 40 minutes going in circles,  
5 asking the same question, asking the same question, and he  
6 wouldn't give me a yes or no answer. As a matter of fact, in  
7 that time period, he gave me three different stories. The  
8 first story was, "I know that it was Jorge. And the reason  
9 that I know it was Jorge is because I saw someone tall in that  
10 unit." Okay. If you remember J.P. Flores, the mastermind and  
11 the planner of the fake traffic stops, worked at the Crime  
12 Stoppers Division within the Hidalgo County Sheriff's Office.  
13 And with him worked Fabian Rodriguez, Jerry Del Angel, together  
14 with him, and they were considered -- they were called,  
15 "Padilla's boys."

16 **(Pause)**

17 If you recall, Fabian Rodriguez, when he testified, I  
18 asked him how tall he was, and he said he was about six feet,  
19 six-one, something around that. I also asked him about Jerry  
20 Del Angel. He did say that Jerry was a little bit shorter. So  
21 I'm going to show you Defendant's Exhibit Number 10. Oh, and  
22 one other thing. If you recall, it was Orlando Cantu who was  
23 also a sergeant -- Orlando Cantu who's also considered one of  
24 Padilla's boys, one of his inner circle. So if we look here,  
25 we can see there's -- here is Jorge right here. And at this

1 end is Jerry Del Angel. And if you can tell, Jerry Del Angel  
2 might even be a bit taller than Jorge. But to the left we have  
3 Sergeant Orlando Cantu, and he, too, is tall. He's actually  
4 much taller than Jorge. So now we have three individuals,  
5 Fabian Rodriguez, Jerry Del Angel, and Orlando Cantu, all  
6 Padilla's boys, all in Padilla's inner circle, some Crime  
7 Stoppers -- Orlando Cantu is the only one that -- who isn't --  
8 who are all tall. Okay.

9 Your Honor, may I leave that on?

10 **THE COURT:** You may.

11 **MS. GUTIERREZ:** Okay. That was the first story.

12 Then I pressed him. I continued to press him about whether he  
13 -- about the fact that he couldn't place Jorge in that patrol  
14 unit. So then the second story, this -- "I know it was him  
15 because I saw somebody tall" became, "I know that it was Jorge  
16 because I was riding in the vehicle with J.P., and J.P. said  
17 that he was going to call 'Amigo.'" Okay. Fernando Guerra,  
18 Senior testified that they called each other by nicknames, that  
19 they didn't use their names. He was Delta; J.P. was Companero;  
20 Fabian Rodriguez was Companero; he claims Jorge was called  
21 Amigo. And so the simple fact that Fernando Guerra, Senior  
22 says that he knows it was Jorge because J.P. said he was going  
23 to call Amigo is not the same as placing Jorge inside that  
24 unit. So I pressed him some more. I continued to ask him that  
25 question, and that story again changed. He says -- now he



1 says, "I know that it was Jorge in that unit because I was  
2 riding with J.P., and while riding with J.P., J.P. called  
3 Amigo, and I could hear the voice on the other -- the voice of  
4 the person who J.P. was talking to." And he says, "I remember  
5 voices that I hear regularly." However, he testified that he  
6 hardly spoke with Jorge. He said -- the most that he said  
7 about having exchanged words with Jorge is when he said that he  
8 met J.P. and Jorge at Love's Truck Stop -- I believe it was a  
9 truck stop -- Love's Truck Stop on one particular occasion.  
10 When I asked J.P. about that occasion, it turns out that it's  
11 not the way that Fernando Guerra made it appear to be. Yeah.  
12 He -- the -- what had actually happened, or the facts of that  
13 particular meeting, was that it wasn't even a meeting at all.  
14 J.P. testified that the Love's Truck Stop was the meeting  
15 location for the Reguladores when they take road trips out of  
16 town. And they all meet there. And on that particular  
17 occasion, that's what was happening. The Reguladores were  
18 meeting there, and J.P. said Fernando Guerra, Senior happened  
19 to drive up to put gas. So they -- I understand -- from what I  
20 understand, Guerra, Senior did greet Jorge, but there was no  
21 planned meeting. It wasn't as though there was an intentional  
22 setup of J.P. and Jorge and Fernando Guerra, Senior meeting at  
23 that Love's location on that day. But going back to, "I  
24 recognize voices that I hear regularly," that doesn't fit. He  
25 didn't speak with Jorge regularly, so that -- we can only

1 conclude that it was someone else he spoke about who he doesn't  
2 want to talk about, if in fact he recognized the voice at all.

3           The only thing that Fernando Guerra, Senior did say  
4 about Jorge was with respect to the identification stops. If  
5 you recall, there was testimony about two different types of  
6 stops that were done. The one was the identification stop,  
7 those stops that were called out to identify individuals and  
8 run -- I don't believe that they ran plates at that point, but  
9 get information so that they could get more information -- or  
10 that J.P. could get more information to then give to Guerra,  
11 Senior. That's the only time, and he said that he saw it on  
12 one occasion. He said that some individuals were leaving from  
13 this area, he requested a stop, he drives past it and he  
14 recognizes Jorge. And I believe that is the time that he said  
15 that he recognized that he wore his holster on his left-hand  
16 side and they called him, "Lefty," if I'm not mistaken. But  
17 that's the only time that Guerra, Senior places Jorge in any of  
18 these activities.

19           One thing that I want to note about Guerra, Senior's  
20 testimony that turned out to be incorrect or who knows, is the  
21 fact that he testified that he had given some radio to  
22 Companero, being J.P., who then gave it to Amigo, who then  
23 Amigo didn't want -- didn't like to use it. I think he said  
24 something about that. When J.P. was asked about that, J.P.  
25 said, "No. He never gave us any radios." Okay.

1           One thing I think that is important also about  
2 Senior's testimony, is if you recall, sometime early on in the  
3 -- in my questioning him, he didn't answer the question as  
4 posed, and immediately pointed and said that it was my client  
5 who conducted the traffic stops. It was almost as though it  
6 was rehearsed and he got overzealous and said it too early, or  
7 said it at the wrong time. And -- because it was not relevant  
8 to the question that I was asking. When you put that together  
9 with the fact that when I pressed him and I pressed him about  
10 whether he could place Jorge inside these vehicles that  
11 conducted the traffic stop, it almost seems as though because  
12 he had a deal, he came to do a job, and he needed to get it  
13 done. And that required saying that Jorge was in the vehicle  
14 no matter what in order for him to get his benefit.

15           Let's move on to J.P. Flores. As we know,  
16 J.P. Flores is -- or was the Crime Stoppers coordinator who was  
17 the unofficial head of that department. And, again, he worked  
18 with Jerry Del Angel and Fabian Rodriguez, who were considered  
19 "Padilla's boys." And he -- based on what he tells us, Sheriff  
20 Trevino had Joe Padilla -- well, J.P. testified that it was  
21 common knowledge that Sheriff Trevino had hired -- or had Joe  
22 Padilla in that position to do his dirty work. That was common  
23 knowledge. And that he also testified that Joe Padilla ruled  
24 with an iron fist, that people were afraid of him, that you  
25 couldn't say no to him because there were repercussions.

1 However, he was able to get close to Padilla, gain his  
2 confidence. He said that eventually they were -- they would  
3 brief every day. J.P. Flores even got to the point of driving  
4 the Sheriff to the airport, which is a kind of nice place to be  
5 if you get to have one-on-one time with the boss when you take  
6 him to the airport. From J.P.'s testimony, we get this -- the  
7 idea that Sheriff Trevino would allow Joe Padilla to wear his  
8 coat of power, let's say. He wore it around the Sheriff's  
9 Department and he exercised that power, and he exercised it  
10 sternly, strictly, I think. Sheriff Trevino stated that he was  
11 over-authoritative, maybe even bully. But Fabian Rodriguez  
12 called him a monster. So we've got a lot of different  
13 adjectives for him. But it turns out that at some point, Joe  
14 Padilla then allows J.P. to wear his coat of power, and he  
15 exercised that power all around the Sheriff's Office by passing  
16 along directions and instructions to other deputies, even  
17 commanders and sergeants that went up -- outside the chain of  
18 command. Now, as you heard from Sheriff Trevino, it shouldn't  
19 have happened, and actually he doesn't believe that that  
20 happened. But J.P. testified that yes, in fact, it did happen.  
21 There was a lot of privileges that came with being "Padilla's  
22 boys." You got to go out -- well, I guess, it's debatable  
23 whether they were privileges, but you got to -- you were able  
24 to leave your job and go run errands, get some shoes shined, go  
25 to the mall, go pay taxes. It's debatable whether they're

1 privileges, but at the same time, you're not at your regular  
2 job. You're out doing other stuff. And so there were  
3 privileges that came from that. J.P. testified that there was  
4 a -- they got -- there was a point where the other deputies or  
5 sergeants were questioning -- lieutenants were questioning,  
6 "Hey, why are you giving me directions? Why are you giving me  
7 instructions?" But because they came from Padilla, everybody  
8 was okay with it. At some point, nobody asked him questions,  
9 and no one said "no" to J.P., because J.P. testified that if  
10 you said "no" to J.P., it was like saying "no" to Padilla, and  
11 that was like saying "no" to the Sheriff. And no one wanted to  
12 do that because everyone knew that there were consequences if  
13 you did not do what Padilla told you to do.

14 As a matter of fact, J.P. testified that he took  
15 advantage of his relationship with Jorge. He would ask Jorge  
16 to go out and pick up toys for toy drives. He had Jorge pick  
17 up turkeys for a turkey drive. He would have him go check on  
18 sky towers that were in different locations within the county.  
19 He asked for Jorge to check on suspicious vehicles. He had him  
20 do extra patrol. He had him DJ, he had him do master of -- be  
21 master of ceremonies at different fundraising functions. So --  
22 and he also testified that Jorge never told him no. So we know  
23 that J.P. used Jorge for different things and that Jorge didn't  
24 tell him "no." So that was very convenient for J.P. That was  
25 a convenient resource.

1           Now let's talk about J.P. at his duties. He was --  
2 well, I guess unofficial duties, based on the Sheriff giving  
3 his testimony -- that his duties were to go out -- and this is  
4 a directive by Padilla -- go out and get money or collect money  
5 for the Sheriff's reelection campaign. That is what you need  
6 to do. So this, of course, is something that J.P.'s not going  
7 to say "no" to. He's going to do it and he's going to try to  
8 do it well so that he gains favor -- or more favor with Padilla  
9 and keeps him happy. Because, as you heard, there was some  
10 testimony that there was an Eddy Rodriguez (phonetic) from  
11 Crime Stoppers who, when he decided or when he couldn't sell  
12 tickets, he was transferred to patrol. And J.P. said it was  
13 better to do what Padilla told you to do and made the working  
14 environment comfortable.

15           The fact that J.P. was ordered, or had, to collect  
16 funds for the Sheriff's campaign reelection -- reelection  
17 campaign, I don't -- I'm not sure that this caused it, but  
18 there was a point where he reconnected with the individual by  
19 the name of Julio Davila. He reconnected with him; and, at  
20 that point, that started -- that connection right there started  
21 his life of crime, let's say, or his criminal activity.  
22 Because Julio Davila was the first person that J.P. did  
23 anything illegal with, as far as selling his services there at  
24 the Sheriff's Office by checking registrations. She -- he did  
25 this first with Julio Davila. And why? Because Julio Davila

1 was a contributor. So he -- J.P. also testified that those who  
2 contributed also were -- gained favor with the Sheriff, because  
3 the Sheriff knew everyone that contributed to his campaign.

4 Through Julio Davila, J.P. meets Fernando Guerra,  
5 Senior, again for this political purpose of generating and  
6 collecting money for the Sheriff's reelection campaign. Senior  
7 became a substantial contributor of money, which was pleasing  
8 to J.P. because it was pleasing to Padilla and eventually  
9 pleasing to the Sheriff. He wanted to keep this connection.  
10 This was a very good connection. And, as it turns out, both --  
11 J.P. had something that Guerra wanted, and Guerra had something  
12 that J.P. wanted. Guerra had money and J.P. had position  
13 within the Hidalgo County Sheriff's Office that was invaluable  
14 to Fernando Guerra, Senior. What drug dealer doesn't want an  
15 in with the law enforcement agency in the county? Especially  
16 when J.P. testified that the contributions that were going to  
17 Sheriff Trevino were -- what did he say, that they were in  
18 exchange for protection, that Padilla had sent a message with  
19 J.P. to Guerra, Senior that whatever you need here, we're  
20 available.

21 This leads us into his next step in the criminal  
22 activity. He testified that with Julio Davila, he started  
23 checking plates. And he was also checking plates through Julio  
24 Davila for Guerra, Senior. At some point, as the testimony  
25 goes, there was a falling -- well, maybe not a falling out, but

1 there was an issue about Julio Davila not having paid  
2 J.P. Flores the amount that Guerra, Senior sent him; and  
3 because of that, the connection -- they cut Julio Davila out.  
4 And so now the relationship was a direct relationship. It was  
5 a direct connection with J.P. and Fernando Guerra, Senior. So  
6 then he started directly checking plates for Fernando Guerra,  
7 Senior. And that became a -- can you stop some people --  
8 became the identification stop. So let's talk about that  
9 first.

10 The identification stops were -- from the testimony,  
11 were for the purpose of stopping an individual, checking what  
12 is -- their information was, getting the real names of those  
13 individuals, because Guerra, Senior stated that they didn't --  
14 they usually didn't work with their real names, so he needed to  
15 know why the real names were, and also because either they were  
16 people who they had ripped off, or they were people who they  
17 were planning to rip off. And so that's how that started.

18 When J.P. talks about these identification stops, the  
19 first thing he said when he was asked about that, his testimony  
20 was, "Yeah. I asked Jorge to do me a favor and stopping a  
21 vehicle on some individuals who were bothering the Guerras."  
22 That's what he said. He also testified that he didn't know all  
23 the details because the Guerras didn't give him all the details  
24 as far as to why they needed to stop. He did testify that some  
25 time later the Guerras did -- or Guerra, Senior did inform him



1 what the real reason was or what the reason behind the stop  
2 was, but initially it wasn't. And we don't have any  
3 information as to when it was that Guerra, Senior asked for the  
4 stop where he witnessed Jorge stopping the vehicle. And as  
5 Sheriff Trevino testified, any of his deputies could conduct a  
6 traffic stop. So the fact that Jorge conducted a traffic stop  
7 on -- at the request of J.P. for this individual who was a  
8 good, substantial contributor who had favor with the county, is  
9 not illegal activity. It was a favor for J.P., just like all  
10 the other favors that he had done for him. "Go check this, go  
11 to the -- go pick up a package at the printing shop," any of  
12 those favors, it was just like that. He didn't do anything  
13 illegal.

14 Now let's talk about the fake traffic stops. From --  
15 J.P.'s testimony, at this point -- well, actually, both Senior  
16 and J.P. -- Senior testified first that, at the point where  
17 they were doing the illegal -- I'm sorry, the fake traffic  
18 stops, that J.P. at this point was already an equal partner  
19 with him and his son and that they would split the proceeds of  
20 the drugs that they had stolen, they would split it three ways:  
21 one-third for Junior, one third for Senior, and one-third for  
22 J.P. There was no indication that Jorge was in any way a  
23 partner. And if you recall, J.P.'s testimony was, with respect  
24 to the stop, he said, "I asked Jorge to help me conduct a stop  
25 on some individuals because Guerra, Junior had stolen some

1 drugs from them and they were giving him problems." But that's  
2 the extent of what J.P. tells us that he told George. Now,  
3 obviously, the fact that you steal some drugs and are having  
4 problems, well, it's not a good thing that he stole -- that  
5 this individual who they're trying to help, had stolen some  
6 drugs, but there was no indication that the drugs had been  
7 stolen that day, or that the drugs had been stolen recently.  
8 There was no indication of when the drugs were stolen. J.P.  
9 didn't testify that he told J.P. (sic) that. He said, "If --  
10 for all we know, the drugs could have been stolen months  
11 before." And Junior, Guerra Junior, was still having problems  
12 with these individuals. Now, remember, none of these stops had  
13 any drugs in them. And as far as J.P.'s testimony goes, he  
14 never testified that Jorge knew that the drugs had -- were  
15 being stolen at that moment, or that they were nearby.

16 If you recall, when I asked J.P. about payments,  
17 about what he received and then -- and what Jorge may have  
18 received, he tried to minimize it. He kept saying, "We did the  
19 stops." "We got paid." We? Who's we? He's an equal partner,  
20 Jorge is an equal partner. He was trying to minimize his role  
21 in this.

22 And I asked him about the payment. If you recall, he  
23 testified, "Well, I would get \$3,000 and Senior would get  
24 \$3,000 and we each would give Jorge \$1,500." And I asked him,  
25 well, wait a minute. That would mean that both you and Guerra,

1 Senior stayed with less and Jorge got more than both of you.  
2 And then he changed his story. And he said, "Well, I don't  
3 really know how much we would give him." Okay. You think that  
4 he wouldn't recall how much money he gave him if he gave him  
5 any at all?

6 And if you recall, after I questioned him and when  
7 the Government got to re-question him, he then changed his  
8 testimony to say he gave Jorge detail about the purpose and of  
9 the intent of the fake stops. That's not something he had  
10 testified to me -- that he had testified when I asked him. Why  
11 does J.P. do this? I submit to you that J.P. does this because  
12 he wants to please the Government like he wanted to please  
13 Padilla and like he wanted to please the Sheriff. Not to  
14 mention the fact that he's getting a benefit for testifying  
15 here and for giving that testimony about, "Yeah, I told Jorge,  
16 and I gave him detail, and I told him everything that was going  
17 on," when in fact that's not what he told me when I first asked  
18 him.

19 So who is J.P.? I believe from the testimony that  
20 we've heard that J.P. is a selfish individual who's only  
21 looking out for J.P. We know this because he said, "Jorge was  
22 like a brother," and that he wanted to protect him. Yet we see  
23 him here in this courtroom pointing the finger at Jorge in  
24 order for him to get back one-third reduction off his sentence.  
25 If he -- if it was true that he really wanted to -- that he was

1 like a brother and that he wanted to protect him, why didn't he  
2 come testify? That would have been the ultimate. That would  
3 have been actions corresponding with words. One thing is what  
4 you say; another thing is what you do. And this is the classic  
5 case of J.P. saying one thing and doing another. He said, "Oh,  
6 he was like a brother to me. I wanted to protect him," while  
7 testifying against him and placing him in a vehicle that no one  
8 else who was involved in these deals could place him in.

9 Let's talk about the relationship that J.P. and Jorge  
10 had. J.P. testified that Jorge -- that he had Jorge keep an  
11 eye on his house when he went out of town. He entrusted his  
12 daughters to Jorge, and he entrusted his elderly parents to  
13 Jorge. I think that we could all agree that children and  
14 parents are two of the most important things in life, and you  
15 don't trust them to just anyone. You only leave those two  
16 types of individuals in the care of somebody who is trustworthy  
17 and who is a good person. He said Jorge was like a -- again,  
18 he said Jorge was like a brother to him. If he was like a  
19 brother to him, why didn't he bring him in to the deal like he  
20 did with Fabian Rodriguez? They were splitting their money.  
21 Why -- if Jorge was so willing to participate in this  
22 conspiracy, why didn't he bring him in and say, "Hey, brother,  
23 this -- what we're doing, this, you're already helping, and you  
24 know that you're in a conspiracy. Why don't you come on board  
25 and we can split it equally?" He didn't do that, but he was

1 like a brother to him. However, he did do it with Fabian  
2 Rodriguez; and, to some extent, even Padilla, because there was  
3 testimony that the Guerra, Senior paid -- that Padilla was  
4 getting some financial benefit for giving information --  
5 passing along information to Guerra, Senior. Why didn't he  
6 make Jorge a partner? I submit to you that the reason that he  
7 didn't bring Jorge in as a partner the way he did with Fabian  
8 Rodriguez and Joe Padilla is because Padilla and Rodriguez were  
9 both willing to engage in criminal activity and Jorge was not.  
10 That's why he only used Jorge.

11 Now, there were some statements made by Mr. Sturgis  
12 with respect to J.P. using Jorge. Another traffic stop, he was  
13 going to use Jorge. Another traffic stop, we're going to use  
14 Jorge. But I asked J.P., "Isn't it true that when you first  
15 interviewed with the Government, you told the Government that  
16 you had not asked anyone else to conduct the traffic stops?  
17 But, in fact, you did. You had asked Jerry Del Angel." And he  
18 said, "Oh, yeah." And if you remember about Jerry Del Angel,  
19 he was the individual who assisted J.P. with two cocaine deals  
20 where Fernando Guerra, Junior was involved. These are the  
21 cocaine deals where Guerra, Junior would take a little bit of  
22 real cocaine, create fake bricks of cocaine and layer them, and  
23 then Jerry Del Angel was involved in hauling it to the  
24 Sheriff's Office so that we could get -- so that they could get  
25 some of the narcotics people, investigators maybe, to come out

1 to the scene, find the cocaine, test it, it would test  
2 positive, they would make a report, and voila, J.P. now has a  
3 report to give Senior, and Senior's happy. He's got money, he's  
4 happy, and everyone is happy. But something that's very  
5 important in those deals is the fact that J.P. deceived the  
6 deputies in the Sheriff's Office or the investigators who  
7 tested the cocaine. He deceived them. They were -- they  
8 didn't know what they were doing. Are we to blame them and  
9 include them in this conspiracy when they were in the dark and  
10 J.P. fooled them, too? This is a deception that's been  
11 perpetuated against a lot of people who had no idea. There was  
12 also talk about the use of officers from the Edinburg P. D.  
13 There was officers from the Pharr P. D. who didn't know what  
14 was going on. They had no shame. They were just using whoever  
15 they needed to use for their purposes. If you remember,  
16 Fernando Guerra, Junior used a term that I thought -- I had  
17 never heard before and I think is very appropriate. He said,  
18 "Oh, yeah, that was a throwaway car," when he was talking about  
19 the cocaine deals. "Yeah, it was a throwaway car." I was  
20 like, "Whoa, throwaway car?" I submit to you that all of these  
21 individuals that they used, including Jorge, they were  
22 throwaway people. They were people that they can use. "I can  
23 use you for this particular instant, for this occasion, for  
24 this operation, without you even knowing, and throw you away."  
25 That's what they were doing here when they came and testified

1 against Jorge. He was a throwaway friend. He was a throwaway  
2 person that he -- that they just used. Now let's move on to --  
3 oh, and before I move on, with respect to the relationship that  
4 J.P. had with Jorge and the fact that -- it indicates that he  
5 was a trustworthy individual, you heard from two witnesses at  
6 the end of the trial with respect to the fact that, "Yeah, I  
7 allowed -- I asked Jorge to do extra patrol on my property and  
8 that, you know, I allowed him onto my property. I believe he's  
9 trustworthy. I wouldn't let him on my property if he wasn't."  
10 And that he was law abiding. Okay. Now we can move on to  
11 Fabian Rodriguez.

12 Yes, Fabian Rodriguez was a co-conspirator. Well, he  
13 was more associated with the Panama -- within the Panama Unit,  
14 because J.P. touched that conspiracy, too. He -- if you  
15 remember Fabian Rodriguez's testimony, Fabian Rodriguez was an  
16 interesting person, because I called him to testify -- I  
17 subpoenaed him, actually. He didn't do it willingly. I called  
18 him to testify, so there was no deal with him and the  
19 Government for him to appear at this trial and testify. There  
20 was no benefit that he was receiving from the Government. And  
21 if you remember, his demeanor was relaxed, and he was -- his  
22 personality came out. Why? Because he wasn't here to do a  
23 job. He wasn't here to get anything for being here. He was  
24 relaxed. He was just telling it how it was. And his testimony  
25 was that he was not involved in any of the fake traffic stops

1 and never saw these traffic stops. So he, too, cannot place  
2 Jorge in those -- the Hidalgo County Sheriff's Office unit that  
3 conducted these fake traffic stops.

4           Fabian testified that once he, himself -- this guy,  
5 who's a member of the Panama Unit, they were making a lot of  
6 busts, making a lot of money, that he, himself, once  
7 participated in an escort of drugs with Jonathan Trevino and  
8 Alexis Espinoza without being told he was escorting the drugs.  
9 Here we go again, where people aren't being told what they're  
10 doing. People aren't being told what criminal activity they're  
11 being asked to commit. He was used without knowledge or  
12 consent. Now, just to be fair, I'm not claiming that he wasn't  
13 engaged in illegal activity. He said, "The reason I was  
14 supposed to be there was that I was supposed to follow some  
15 lady," and I think he ended up load and then he was picked on  
16 about that. But, yeah, he was going to do something illegal.  
17 But as far as escorting, he ended up escorting without even  
18 being asked to do it, and he had no knowledge that he was doing  
19 it. He was just used. This is consistent with the operations  
20 of these different conspiracies that deceive for a benefit.

21           Now, something that's very important that came out of  
22 J.P.'s testimony was that I'd already asked J.P. about the fact  
23 that he told investigators that he had never approached anybody  
24 else except Jorge to do the fake traffic stops. And when I  
25 asked him, "Isn't it true that you told that you had in fact



1 asked Del Angel," he said, "Oh, yeah, I had asked Del Angel."  
2 Well, Fabian Rodriguez gives us even more information about  
3 that. He said, "He approached me to do a fake traffic stop,  
4 and I said no. So then he asked me to approach Duran, Gerardo  
5 Duran, and Duran said no." So now we've got two more people  
6 that he's approached that he didn't testify about. And so on  
7 that -- in that incident where he says, "He approached me, I  
8 said no," Duran, Duran said no, when he -- Fabian testified  
9 that when he spoke to J.P. again, J.P. said, "Oh, don't worry  
10 about it. I'm going to get Jorge to do it." Yeah. He's going  
11 to get Jorge to do it just like he got Jorge to go pick up  
12 toys, just like he got Jorge to go do -- go look -- go check on  
13 a suspicious vehicle, just like he got Jorge to check on the  
14 sky towers, how he got Jorge to do all the things that he got  
15 him to do, because he knew that he would do it, he knew he  
16 wouldn't ask, and he was taking advantage of that friendship.

17 And if you remember, J.P. testified that, yeah, he  
18 was scared of Padilla. But Fabian is the one that said that,  
19 "Yeah, I fear Padilla. Even as I'm testifying here, I fear  
20 him." I mean, that's pretty impressive, I believe. I mean,  
21 he's far removed from the Hidalgo County Sheriff's Office, he's  
22 safely in a court of law, and he's scared still of Joe Padilla.

23 One thing I would like to know is where is Jerry Del  
24 Angel in all of this?

25 (Pause)

1 I'm going to show you what's marked as Defendant's  
2 Exhibit Number 2, and this is the indictment on the Julio  
3 Davila conspiracy. We can see here that there's Julio, Armando  
4 Davila, there's Rene Garcia, there is David Olivarez, and Aida  
5 Palacios, four individuals that have been talked about in this  
6 case with -- in connection with the Julio Davila conspiracy.  
7 They were indicted and they are being criminally prosecuted.

8 I'm going to show you what I've marked Defendant's  
9 Exhibit 11 -- or what has been marked. And we have here --  
10 well, Jonathan Trevino, Alexis Rigoberto Espinoza, Fabian  
11 Rodriguez, Gerardo Duran, those individuals here are connected  
12 with the Panama Unit, although I don't believe that they are  
13 all officially members, but they worked with the Panama Unit.  
14 We have over -- or maybe they -- I think these are. I  
15 apologize. Then we have, of course, the Guerras, Senior and  
16 Junior, we have Salvador Arguello, Claudio Alberto Mata, and  
17 Eric Michael Alcantar. Those individuals I believe are the  
18 deputies that -- they may have been with Panama or just worked  
19 with them, but they are connected with that. They're here in  
20 this indictment. And then we have J.P. Flores and Jorge Garza.  
21 Everyone that's been mentioned in this case, who has committed  
22 illegal acts, has -- is -- has been charged and is being  
23 prosecuted -- has been prosecuted. A lot of them have already  
24 pled guilty. But where is Jerry Del Angel.

25 **MR. STURGIS:** Judge, I'm going to object. This is

1 improper argument.

2           **THE COURT:** Sustained.

3           **MR. STURGIS:** We're here on Mr. Garza's case.

4           **THE COURT:** Sustained.

5           **MS. GUTIERREZ:** You might ask yourself how could all  
6 of this have happened? We've heard a lot of testimony about --  
7 not only about all these drug conspiracies, because I think  
8 that we all understand that, you know, drug dealers exist. But  
9 the fact that the drug dealers and the law enforcement  
10 officials were working together, those law enforcement  
11 officers, who are tasked with fighting crime, have turned and  
12 now are engaging in that same criminal activity that they're  
13 supposed to be fighting. Well, we can look at Sheriff  
14 Trevino's testimony for some guidance.

15           If you recall Sheriff Trevino's testimony, he didn't  
16 know anything that was going on. He didn't know any of the  
17 illegal activity that was going on. He didn't know any of the  
18 information that Padilla was alleged to have been perpetuating.  
19 He wasn't informed about the raffle tickets. He wasn't  
20 informed about the fact that there were repercussions if you  
21 didn't sell tickets, or that people were being forced to work  
22 in his campaign, or that the timesheets were being manipulated  
23 in order to allow them to work on his campaign. He wasn't  
24 aware of any of those things. He wasn't aware of any of  
25 Padilla's illegal activities or the allegations of him having

1 sold information to the Guerras. He wasn't aware of J.P.'s  
2 illegal activities. And this is -- you know, J.P., he was  
3 pretty close with him as far as being close enough to drive you  
4 to the airport. I mean, you don't just trust anyone to take  
5 you, to drive you in a vehicle. Of course, they could take you  
6 anywhere. They're in control. He didn't have any idea about  
7 Julio Davila or the Guerras' cash donation. He didn't know  
8 anything about the Panama Unit and their illegal activities.  
9 He, himself, testified that he didn't know anything that they  
10 didn't tell him, so he didn't know any of this. He didn't know  
11 what was going on. And what is the result of that? This  
12 created an atmosphere of anything goes, and those who have  
13 power have the control of everyone and everything. And who had  
14 the power there at the Hidalgo County Sheriff's Office? The  
15 Panama Unit we know had some power. Padilla -- Joe Padilla,  
16 from the testimony, had ultimate power. He was the -- like a  
17 tyrant. And the Padilla boys. The Padilla boys got to do  
18 whatever they wanted. They had an Hidalgo County Ford  
19 Expedition available to them. They had access to different --  
20 to all the -- to any unit that they wanted, and any deputy,  
21 based on J.P.'s testimony. So basically the Hidalgo County  
22 Sheriff's Office was their playground. I don't even think that  
23 it stopped there. I think that the County of Hidalgo was their  
24 playground, and they played. If you notice, all of the Padilla  
25 boys became involved in the drug -- in drug trafficking at some

1 point. You've got J.P. Flores, Fabian Rodriguez, and Jerry Del  
2 Angel. J.P. did testify that at -- Fabian Rodriguez testified  
3 that there was a white Ford Expedition assigned to the Crime  
4 Stoppers. I believe Sheriff Trevino corroborated that. So  
5 there was a Ford Expedition available to J.P. Flores. And even  
6 if there wasn't one assigned, because of the fact that he had  
7 Padilla's power, he could have access to one if he needed it.

8 I do want to clear up something that James Sturgis  
9 said in his opening. He said that Fabian Rodriguez testified  
10 that there was some money that he saw -- I apologize -- he saw  
11 -- he believed something -- that there was some money given to  
12 Jorge from Guerra, Senior. The testimony from Fabian Rodriguez  
13 was that he saw Jorge pick up some money from Julio Davila.  
14 But he didn't testify anything about what that money was for,  
15 and we know that they sold tickets. We know that. So we don't  
16 know where that money came from. He didn't say it wasn't from  
17 that, and he didn't say it was from any illegal activity. All  
18 he said is, "We -- I saw that happen," and he didn't tell us  
19 how much. We have no idea how much it was. It could have been  
20 20 bucks. We don't know.

21 Mr. Sturgis also stated that, with respect to Senior  
22 wanting some license plates checked, that he said, "They did  
23 it." J.P. testified that Jorge never ran any plates for the --  
24 for Guerra, Senior. He never did. It was --

25 **THE COURT:** You have about five minutes.

1                   **MS. GUTIERREZ:** It was J.P. who did that.

2                   On the issue of the drug quantities, Guerra, Senior  
3 indicated that the amounts of the drugs were anywhere from 300  
4 to 400. Mr. Sturgis said 300 to 500. From what my notes  
5 indicate, it was 300 to 400. I wanted to clear that up for  
6 you.

7                   And I want to stress the point about the fact that  
8 the four individuals that the Government brought to present  
9 evidence to you so that they could prove their case beyond a  
10 reasonable doubt are all convicted drug traffickers that are  
11 connected to this case in one way or another, but more  
12 importantly are receiving a benefit for coming here and  
13 testifying. And I think that that's very important. And like  
14 I mentioned, when you compare their demeanor with Fabian  
15 Rodriguez, these four individuals were very business because  
16 they were here to do a job.

17                  So the Government's case -- entire case -- is built  
18 on these individuals who have an incentive to come in here and  
19 tell you what the Government wants to hear, and that is to tell  
20 you that Jorge is the one that was sitting in that patrol unit.  
21 I submit to you that the evidence presented to you by the  
22 Government does not rise to the level of proof beyond a  
23 reasonable doubt that Jorge Garza was the person in that  
24 Hidalgo County Sheriff's Office patrol unit conducting the fake  
25 traffic stops. But, if you believe that it was Jorge who

1 conducted the fake traffic stops, the evidence that you have  
2 heard that has been presented to you by the Government is not  
3 proof -- does not rise to the level of proof beyond a  
4 reasonable doubt that he knew of the unlawful purpose of the  
5 agreement between J.P. and the Guerras, or anyone else, or that  
6 he joined the conspiracy with the intent to further its  
7 unlawful purpose, I ask you, and Jorge asks you, to evaluate  
8 the evidence carefully and to hold the Government to their  
9 burden. Thank you very much.

10 (Closing argument on behalf of Defendant and transcription  
11 concluded at 10:47:58; proceeding continued)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



---

Signed

October 21, 2013

Dated

*TONI HUDSON, TRANSCRIBER*